

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

MAY 22, 2000

IN RE:

CTSI, INC. FOR A CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE FACILITIES-BASED  
AND RESOLD LOCAL EXCHANGE AND FACILITIES-  
BASED AND RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT  
THE STATE OF TENNESSEE

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ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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On March 28, 2000, this matter came before the Tennessee Regulatory Authority ("Authority"), upon the Application of CTSI, Inc. ("CTSI") for a Certificate of Public Convenience and Necessity as a Competing Telecommunications Service Provider to offer a full array of telecommunications services within the State of Tennessee (the "Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

CTSI's Application was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

- (a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other

territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

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(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

In addition, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

## INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to or during the hearing.

## CTSI's HEARING

CTSI's Application was uncontested. At the hearing held on March 28, 2000, CTSI was represented by Mr. Ronald W. Del Sesto, Jr. of Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007. In addition, Mr. Mark DeFalco, CTSI's Director of Regulatory Affairs presented testimony and was subject to examination by the Authority's Directors. Upon CTSI's conclusion of the proof in its case, the Authority granted CTSI's Application based upon the following findings of fact and conclusions of law:

### **I. APPLICANT'S QUALIFICATIONS**

1. CTSI is a Pennsylvania corporation that was incorporated on October 1, 1999. CTSI has obtained the required authority to transact business in the State of Tennessee.

2. The complete street address of CTSI's principal place of business is 300-H Laird Street, Wilkes-Barre, Pennsylvania, 18702. The phone number is (570) 208-6400 and the fax number is (570) 208-6511. CTSI's counsel are Russell M. Blau and Ronald W. Del Sesto, Jr. of Swidler Berlin Shereff Friedman, LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007.

3. The Application and supporting documentary information existing in the record indicate that CTSI has the requisite technical and managerial ability necessary to

provide a full array of local exchange and interexchange telecommunications services within the State of Tennessee on a facilities-based and resale basis. CTSI's management and technical teams have particular expertise in the development and deployment of facilities-based and resold telecommunications services.

4. CTSI has the necessary capital and financial capability to provide the services it proposes to offer.

5. CTSI has represented that it will adhere to all applicable policies, rules and orders of the Authority.

## **II. PROPOSED SERVICES**

1. CTSI intends to provide all forms of resold and facilities-based local exchange telecommunications services to residential and business customers, including: (1) basic residential exchange services (local exchange flat rate, measured rate service, operator access, etc.); (2) residential custom and class features (call waiting, caller ID, call forwarding, etc.); (3) basic business exchange services; (4) business custom calling and class features; (5) adjunct provided features (voice messaging, etc.); and (6) business and residential ancillary services (directory assistance, directory listing, 911, etc.). CTSI also intends to provide operator assisted services, directory assistance, toll-free calling, dual party relay services, and access to 911 emergency services. CTSI will also offer resold and facilities-based interexchange services throughout the State of Tennessee, including both inbound and outbound intraLATA and interLATA services.

2. The geographic area that CTSI intends to serve is identical to the area currently served by BellSouth Telecommunications, Inc., and the exchange area of any other local exchange carrier ("LEC") that is not now, or ceases to be, subject to

competitive protection as a small or rural LEC pursuant to 48 U.S.C. § 251(f). Applicant seeks statewide authority so that it may expand into other service areas as market conditions warrant.

### **III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY**

Upon a review of the Application and the record in this matter, the Authority finds that approval of CTSI's Application would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and by fostering the development of an efficient technologically advanced statewide system of telecommunications services.

### **IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM**

1. CTSI has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules.

2. CTSI has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

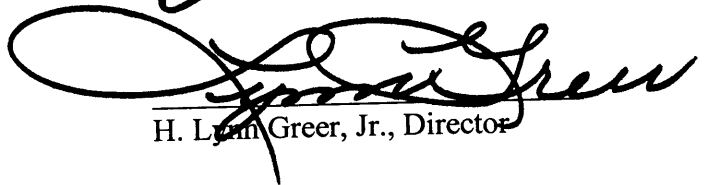
### **IT IS THEREFORE ORDERED THAT:**

1. CTSI, Inc.'s Application for authority to provide resold and facilities-based local exchange and resold and facilities-based interexchange telecommunications services is approved as applied for;

2. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order; and

3. Any party aggrieved with the Authority's decision in this matter has the right of judicial review of filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

  
Melvin J. Malone, Chairman

  
H. Lynn Greer, Jr., Director

  
Sara Kyle, Director

ATTEST:

  
K. David Waddell, Executive Secretary